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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1952

No. 426

WILLIAM HEIKKILA, APPELLANT,

vs.

BRUCE G. BARBER, INDIVIDUALLY AND AS DISTRICT DIRECTOR OF THE IMMIGRATION AND NATURALIZATION SERVICE FOR THE THIRTEENTH IMMIGRATION DISTRICT, ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

FILED OCTOBER 29, 1952

Probable jurisdiction noted December 8, 1952.

SUPREME COURT OF THE UNITED STATES

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., DEC. 23, 1952.

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in the hearings above mentioned. (Tr. 61.) That the theory upon which the said evidence was admitted was:

> ". . . because it is an admission of something to which he declined to testify at this time. In ruling in that manner, an admission against a man's interest would be available to this record if he refused to testify on the point at this time." (Tr. 55.)

[fol. 15] This is the ruling of the Hearing Examiner.

That the hearing was then adjourned to a date to be set by the Hearing Examiner subsequently, in order to allow the Immigration and Naturalization Service to take the testimony in New York of a witness who would testify to the nature, aims, and objectives of the Communist Party of the United States. (Tr. 77.)

VI

That thereafter, on November 28, 1950, the hearing was reconvened in San Francisco. During the course of that hearing, the examining officer lodged, over objection of petitioner, a new charge that "He is subject to deportation under the Act of October 16, 1918, as amended, in that he is found to have been after entry a member of the following class set forth in Section 1 of said Act, to wit: an alien who was a member of the Communist Party of the United States . . ." (Tr. 84.) That the Hearing Officer at the same time stated:

> "In connection with the lodging of this charge I move that the charge in the warrant of arrest, identified as Exhibit 1, be not considered in arriving at a final decision in this case."

That the Hearing Officer stated (Tr. 85):

> ". . . consideration in this case will be confined to the lodged charge."

That thereupon, on motion of counsel for petitioner, the deposition of a witness with respect to the nature of the Communist Party which had been admitted in evidence was stricken, together with the exhibits attached to it. (Tr. 86.) That there was no other evidence bearing on the nature of

the Communist Party. That an offer of proof by petitioner with regard to the nature of the Workers Party and the Communist Party during the years 1929 to 1939 was rejected by the Hearing Officer at a subsequent hearing on January 2, 1951.

VII

That at the said hearing on January 2, 1951, the Hearing Officer, Milton T. Simmons, presided as "Hearing Officer" under the rules and regulations of the Immigration and Naturalization Service, without observance of the require-[fol. 16] ments of the Administrative Procedure Act, supra. That he was the same person who had presided at the hearing in June 1950 as a "Hearing Examiner," purporting to act in conformance with the provisions of the Administrative Procedure Act.

(Sgd.) George R. Andersen.

Subscribed and sworn to before me this 12th day of July, 1952. (Sgd.) Agnes Quave, Notary Public in and for the City and County of San Francisco, State of California. (Notarial Seal.)

[File endorsement omitted.]

[fol. 17] In the United States District Court for the Northern District of California, Southern Division

No. 31,671

William Heikkila, Plaintiff,

vs.

Bruce G. Barber, Individually and as District Director of the Immigration and Naturalization Service for the Thirteenth Immigration District; John Doe One through John Doe Ten, inclusive, Defendants

Judgment—Filed August 4, 1952

William Heikkila, plaintiff herein, having applied to a judge of this court for an interlocutory injunction restraining the enforcement, operation and execution of an Act of

[fol. 1]

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

No. 31671

WILLIAM HEIKKILA, Plaintiff,

vs.

BRUCE G. BARBER, Individually and as District Director of the Immigration and Naturalization Service for the Thirteenth Immigration District; JOHN DOE ONE through JOHN DOE TEN, inclusive, Defendants.

COMPLAINT FOR INJUNCTION, DECLARATORY RELIEF AND A REVIEW OF ADMINISTRATIVE ACTION—Filed July 11, 1952

To the Honorable the Judges of the Above-entitled Court:

The complaint of William Heikkila respectfully represents and alleges:

I

That the within cause involves the constitutionality of statutes of the United States and requires adjudication thereon by a three-judge court.

II

That plaintiff is and at all times herein material has been a resident of the City and County of San Francisco, State of California, and within the jurisdiction of this Court.

That the defendant Bruce G. Barber is and at all times herein material has been a resident of the City and County of San Francisco, State of California, and within the jurisdiction of this Court, and District Director of Immigration for the Thirteenth Immigration District.

That the true names of the defendants sued herein as John Doe One through John Doe Ten, inclusive, are presently unknown to plaintiff, but plaintiff alleges that said [fol. 2] persons are acting in concert with, or under the direction, supervision and control of the defendant Bruce

G. Barber, and plaintiff prays leave to insert herein the true names of said defendants when the same have been ascertained.

III

That the amount in controversy exceeds the sum of $3,000.

IV

That jurisdiction of this Court is conferred by the provisions of 28 USCA §1331, 1346(a) (2) and 5 USCA §1009.

V

Plaintiff William Heikkila was born in Veteli, Waasa, Finland, on March 14, 1906, and came to the United States at the age 2½ months, with his father and mother, arriving at New York City on June 10, 1906. He has since that date resided in the United States. He regards himself as a national or citizen of the United States and as owing allegiance to the United States and to no other state or nation. He has no knowledge of his citizenship, but is informed that he may be a citizen of the United States by birth, deriving his citizenship through his mother, who in turn derived her citizenship by derivation from her father. Plaintiff is investigating the facts which would support that possibility. Plaintiff is a draftsman by occupation, and is and for many years past has been employed as such in the City and County of San Francisco.

Plaintiff has except for approximately two months immediately after his birth, never resided in Finland. He has never paid any taxes to Finland, nor voted there, nor done any other act which would attach him to Finland as a citizen or national thereof.

VI

That on or about December 30, 1947, the defendant Barber, or his predecessor, executed or caused to be executed a warrant for the arrest of petitioner, charging him with violation of the immigration laws of the United States, in that he was alleged to then be a member of an organization which believed in, advised, advocated, or taught the overthrow of the Government by force, violence, or other

unconstitutional means, in violation of the provisions of [fol. 3] 8 USCA §137. Hearings were held in 1949 before a Hearing Officer of the Immigration and Naturalization Service under the charge contained in the warrant. These hearings did not conform to the requirements of the Administrative Procedure Act, 5 USCA 1001, et seq. The said hearings were and are illegal, unconstitutional and void.

VII

Subsequently, by reason of the decision of the Supreme Court of the United States in the case of *Wong Yang Sung* v. *McGrath*, 339 U. S. 33, those hearings were abandoned by the said Immigration Service and new hearings were instituted before a Hearing Examiner who purported to be appointed under and to be conducting the hearings in accordance with the provisions of the Administrative Procedure Act. These second hearings were held in June 1950. The charge before the Hearing Examiner was the charge contained in the warrant issued December 30, 1947.

VIII

During the course of the said hearing, the Hearing Examiner admitted into evidence, over objection of plaintiff, a portion of the transcript of record of the 1949 hearing. Said portion of the transcript was introduced for the purpose of establishing that plaintiff had admitted being a member of the Workers Party and of the Communist Party from 1929 to 1939, and not thereafter. The admission of the said transcript was against law and deprived plaintiff of due process of law and of the guarantee against self-incrimination contained in the Fifth Amendment to the Constitution of the United States.

IX

The said hearings in 1950 deprived plaintiff of due process of law and were against law, in that they failed to conform to the requirements of due process of law for the reason, among others, that the Hearing Examiner had been an employee and officer of the Immigration and Naturalization Service for many years prior to his appointment as

Hearing Examiner, and in such prior service had conducted [fol. 4] investigations, prosecutions and hearings of aliens. That the said Hearing Examiner was not an impartial hearing officer as required by the provisions of the Administrative Procedure Act, 5 USCA 1001, et seq. That by reason of the partiality of the said Hearing Examiner the said hearings in 1950 did not comply with the requirements of the Administrative Procedure Act, 5 USCA 1001, et seq.

X

Subsequent to the hearings held in June 1950, the said Hearing Examiner continued as the tribunal in which the said charges were heard and determined, but after September 27, 1950, by reason of the passage of the Supplemental Appropriations Act (Public Law 843, 81st Congress, 64 Stat. 1048, 8 USCA 155a) the said Hearing Officer functioned without compliance with the Administrative Procedure Act and under the theory that said Administrative Procedure Act no longer applied.

XI

That during the course of the said hearings in November, 1950 the Immigration and Naturalization Service, by its Examining Officer appeared at the said hearing, lodged a new charge against plaintiff, charging he had been since entry a member of the Communist Party. Said lodged charge was drawn under the provisions of 8 USCA § 137 (2) (C) providing for the exclusion from the United States of aliens who are members of or affiliated with the Communist Party of the United States, and §137-3 providing that any alien who was at the time of entering the United States, or has been at any time thereafter a member of one of the classes of aliens enumerated in §137(2) shall upon the warrant of the Attorney General be taken into custody and deported.

XII

That said Examining Officer stated, and the Hearing Officer agreed, that decision in the said administrative hearing should be upon the lodged charge only, and not upon the charge contained in a warrant, and should be based upon the portion of the transcript of record from

[fol. 5] the 1949 hearing which had earlier been introduced in evidence in the June 1950 hearing.

XIII

That thereupon the Hearing Officer recommended a decision that plaintiff be deported on the grounds that the said lodged charge had been established. By subsequent appeal to the Commissioner of Immigration and to the Board of Immigration Appeals, the recommended order of the Hearing Examiner was sustained and on January 11, 1952, a final order for the deportation of plaintiff on the grounds stated above as set forth in the lodged charge was made and entered.

XIV

That the Workers Party and the Communist Party of the United States during the period 1929 to 1939 were not organizations which believed in, advocated, or advised the overthrow of the Government of the United States by force, violence, or other unconstitutional means, nor a Communist action organization, nor a Communist front organization, nor a Communist organization, as those terms are used in 50 USCA 781, 782, et seq.

XV

That plaintiff did not during the period 1929 to 1939, and he has not at any time prior or subsequent to the said period, believed in, advocated, or advised the overthrow of the Government of the United States by force or violence, or other unconstitutional means, and that plaintiff has at all times been loyal to the Government and the Constitution of the United States. That plaintiff now has pending before the Superior Court of the State of California, in and for the City and County of San Francisco, a petition for naturalization.

XVI

That plaintiff offered to prove during the said 1950 hearings that the Workers Party and the Communist Party of the United States during the period 1929 to 1939 were not organizations which believed in, advocated, or advised the

overthrow of the Government of the United States by force or violence, or other unconstitutional means, and plaintiff had not at any time and did not at that time so believe, [fol. 6] advocate or advise. The said offer of proof was rejected by the said Hearing Examiner. By rejecting the said offer of proof the Hearing Examiner deprived plaintiff of due process of law.

XVII

That defendants threaten to, and unless restrained by the order of this Court will, on or after Friday, July 11, 1952, take into custody and deport from the United States plaintiff. That plaintiff has been, and by such action will further be deprived of constitutional rights in the following respects:

1) The deportation has been ordered and will be carried out under color of 8 USCA 137(2) and 137-3, which statutes are unconstitutional and void, in that they constitute a bill of attainder in violation of the provisions of Article I, Section 9, Clause 3 of the Constitution of the United States, and an ex post facto law in violation of the same provision of said Constitution.

2) Said deportation has been ordered and will be carried out under color of the said statutes which are unconstitutional and void, in that they deprive plaintiff of the guarantee of free speech and free press contained in the First Amendment to the Constitution of the United States and the guarantee of due process of law contained in the Fifth Amendment to the Constitution of the United States.

XVIII

That plaintiff is without any speedy or adequate remedy at law.

XIX

That there exists between plaintiff and the defendants controversy in that plaintiff maintains that the acts and threatened acts of defendants here complained of are illegal and void for the reasons hereinabove set forth, while the defendants maintain on the other hand that the said acts are lawful in all respects.

Wherefore, plaintiff prays:

1) For temporary and permanent injunctions restrain-
[fol. 7] ing defendants, and each of them, their successors, if any, and all persons acting in concert with them or their successors, or under the direction or control of the defendants or their successors, from in any manner seeking to deport plaintiff, or deporting plaintiff, restraining, arresting or imprisoning plaintiff by color of the order of January 11, 1952, or any other order issued under color of authority of 8 USCA 137(2) and 137-3.

2) A declaration of rights of the parties in the matters hereinabove set forth.

3) A review of agency action with respect to the matters hereinabove set forth.

Gladstein, Andersen & Leonard, By (S.) Floyd E. McMurray, Attorneys for Plaintiff.

[fol. 8] *Duly sworn to by William Heikkila. Jurat omitted in printing.*

[File endorsement omitted.]

[fol. 9] IN UNITED STATES DISTRICT COURT

ORDER DESIGNATING UNITED STATES CIRCUIT JUDGE AND UNITED STATES DISTRICT JUDGES PURSUANT TO SECTION 2284 OF 28 UNITED STATES CODE—July 15, 1952

Whereas, in my judgment the public interest so requires, I, pursuant to the provisions of Section 2284, Title 28, United States Code, do hereby designate and appoint the Honorable Clifton Mathews, United States Circuit Judge for the Ninth Judicial Circuit, and the Honorable Oliver J. Carter, United States District Judge for the Northern District of California, to sit with the Honorable Louis E. Goodman, United States District Judge for the Northern District of California, and to hold the District Court for the Northern District of California and to hear and deter-

mine the following cause: Heikkila v. Barber, et al, No 31,671, and all motions and proceedings therein.

Dated at San Francisco, California, this 15th day of July, 1952.

(S.) Clifton Mathews, Acting Chief Judge, United States Court of Appeals, Ninth Judicial Circuit

[File endorsement omitted.]

[fol. 10] IN UNITED STATES DISTRICT COURT

[Title omitted]

MOTION TO DISMISS—Filed July 29, 1952

Comes now the defendant, Bruce G. Barber, by and through his attorneys, Chauncey Tramutolo, United States Attorney for the Northern District of California, and Edgar R. Bonsall, Assistant United States Attorney for said District, appearing specially, and moves the Court for the dismissal of the Complaint on the following grounds:

(1) The Complaint fails to join an indispensable party, in that the action is brought to review the Order of Deportation of the Commissioner of Immigration and Naturalization, Washington, D. C., and not of the defendant, Bruce G. Barber, so that the Commissioner of Immigration and Naturalization is an indispensable party to the adjudication of the controversy.

(2) The action has not been brought in the proper venue in that the official and actual residence of the Commissioner of Immigration and Naturalization is Washington, D. C.

(3) The Court is without jurisdiction over the person of the Commissioner of Immigration and Naturalization, who is an indispensable party to this action.

[fol. 11] (4) The Complaint fails to state a claim upon which relief can be granted in that:

(a) The issues raised by the pleading are moot, as the plaintiff has been accorded a fair hearing, in compliance with all of the present immigration laws and regulations, and any new hearing would be merely repetitious and accomplish no useful purpose.

(b) The Immigration Act of October 16, 1918, as amended by the Internal Security Act of September 23, 1950 (8 USC, 137) is constitutional.

(c) The Court is without jurisdiction of the subject matter of this action and the Complaint fails to state a claim upon which relief can be granted in that the plaintiff has a full, complete and adequate remedy at law.

(S.) Chauncey Tramutolo, United States Attorney.
(S.) Edgar R. Bonsall, Assistant United States Attorney.

[File endorsement omitted.]

[fol. 12] IN UNITED STATES DISTRICT COURT

[Title omitted]

AFFIDAVIT OF GEORGE R. ANDERSEN—Filed August 1, 1952

STATE OF CALIFORNIA,

City and County of San Francisco, ss.:

George R. Andersen, being first duly sworn, deposes and says:

That he is one of the attorneys for petitioner herein and the attorney who represented the petitioner in the various hearings held by the Immigration and Naturalization Service referred to in the petition for injunction in this cause. That he makes this affidavit on behalf of petitioner and in support of the said petition for injunction and other relief.

That the following facts are true to the best of your affiant's recollection, and that they are based in part upon affiant's recollection and in part upon the transcript of testimony taken before the hearing officers of the Immigration and Naturalization Service on the dates noted below:

I

That the initial hearings in the case of petitioner were held on June 13, 1949, and other days before Gilbert F.

Gaynor, Presiding Inspector, in the City and County of Sa Francisco. That at the said hearing and on said day peti tioner testified with respect to his membership in the Com mmnist Party and the Workers Party during the period 192 to 1939. That it is not intended by this affidavit to set fort or imply what that testimony was.

II

That the said hearings before Gilbert F. Gaynor were no [fol. 13] conducted in accordance with the Administrativ Procedure Act, 5 U.S.C.A. 1001, et seq.

III

That the testimony of petitioner in that hearing was give over petitioner's objection. That petitioner objected to th hearings as void and illegal and depriving him of due proc ess of law, and as in violation of the provisions of the Ad ministrative Procedure Act.

IV

That at the hearing held on June 13, 1950, petitioner wa asked:

> "Q. To what political organizations have you or d you now belong?" (Tr. 36.)

Objection was made on the ground that the warrant contain ing the charge then before the Hearing Examiner referre to present membership alone. The objection was sustained The question was then asked:

> "Q. Simply to what organizations have you belonge in the United States?" (Tr. 36.)

That the same objection was made to the question, and th objection was sustained. That the Examining Officer the stated:

> "Mr. Examiner, I propose to show through the direc testimony of the respondent that he has been a membe of the Communist Party of the United States, followin which it is my intention to lodge an appropriate charg relating thereto. Now, I cannot lodge a charge until

have some testimony in that regard and I cannot obtain the testimony if you are going to overrule a direct question to the respondent as to whether he is now or has ever been a member of the Communist Party. I respectfully request that you permit that question to be answered." (Tr. 38.)

[fol. 14] That after some colloquy the Hearing Examiner stated:

"The Examining Officer has explained a valid reason for the question now and it will be permitted to be asked." (Tr. 40.)

That the petitioner was then asked:

"Have you ever at any time since arrival in the United States been a member of the Communist Party of the United States, and are you now such a member?" (Tr. 42.)

This question was amended to:

"Are you now a member of the Communist Party of the United States?"

to which the answer was, "No, sir." (Tr. 42.)

The petitioner was then asked:

"Have you at any time ever been a member of the Communist Party of the United States?" (Tr. 42.)

To this, after a statement of reasons for objecting to it, petitioner replied that on advice of counsel he would not answer the question. He was then asked whether he had been a member of the Communist Party in 1929, 1930, 1931, and each year to and including 1939. To each of these the respondent declined to answer on advice of counsel.

V

That thereafter, on the same day, over objection, the Hearing Examiner admitted in evidence the testimony of petitioner taken on June 13, 1949, before Gilbert F. Gaynor

Congress for repugnance to the Constitution of the United States, and Bruce G. Barber, defendant herein, having moved to dismiss this action, and said application and motion having been heard by this court of three judges under section 2284 of Title 28 of the United States Code, and this court having concluded that said motion should be granted, it is hereby ordered, adjudged and decreed that said motion be, and it is, hereby granted, that this action be, and it is, hereby dismissed, and that said defendant Barber recover his costs.

Dated August 4, 1952.

(S.) Clifton Mathews, United States Circuit Judge, (S.) Louis E. Goodman, United States District Judge, (S.) Oliver J. Carter, United States District Judge.

Entered in Civil Docket Aug. 4, 1952.

Aug. 27, 1952.

[File endorsement omitted.]

[fol. 18] In United States District Court

[Title omitted]

Petition for Appeal—Filed September 3, 1952

Considering himself aggrieved by the final decree and judgment of this Court made and entered on the 4th day of August, 1952, in the within cause, William Heikkila, plaintiff herein, does hereby pray that an appeal be allowed to the Supreme Court of the United States from the said final decree and judgment, and from each and every part thereof; that citation be issued in accordance with law; that an order be made with respect to the appeal bond to be given by the said plaintiff, and that the amount of security be fixed by the order allowing the appeal; and that the material parts of the record, proceedings and papers upon which said final decree and judgment was based, duly authenticated, be sent

to the Supreme Court of the United States in accordance with the rules in such case made and provided.

Respectfully submitted, Gladstein, Andersen & Leonard, by (S.) Lloyd E. McMurray, Counsel for Plaintiff-Appellant.

[fol. 19] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER ALLOWING APPEAL—September 3, 1952

William Heikkila having made and filed his petition praying for an appeal to the Supreme Court of the United States from the final judgment and decree of this Court in this cause entered on August 4, 1952, and from each and every part thereof, and having presented his assignment of errors and prayer for reversal, and his statement as to the jurisdiction of the Supreme Court of the United States on appeal, pursuant to the statutes and rules of the United States in such cases made and provided,

Now, therefore, it is hereby ordered that said appeal be, and the same is hereby, allowed as prayed for.

It is further ordered that the amount of the appeal bond be, and the same is hereby, fixed in the amount of $250.00, with good and sufficient surety, and that it shall be conditioned as may be required by law.

It is further ordered that citation shall issue in accordance with law.

Dated: September 3, 1952.

(Sgd.) Louis E. Goodman, District Court Judge.

[File endorsement omitted.]

[fol. 20] Citation in usual form, omitted in printing.

[fol. 21] IN UNITED STATES DISTRICT COURT,

[Title omitted]

ASSIGNMENT OF ERRORS AND PRAYER FOR REVERSAL—Filed September 3, 1952

William Heikkila, plaintiff in the above-entitled cause, in connection with his appeal to the Supreme Court of the United States hereby files the following assignment of errors upon which he will rely in his prosecution of said appeal from the final judgment of the District Court entered on August 4, 1952.

The District Court erred:

1. In denying a preliminary injunction where the question was presented to it upon the complaint and a motion to dismiss.

2. In denying plaintiff a trial on the merits by ordering the dismissal of his complaint.

3. In denying a declaration of the rights of the parties.

4. In denying a review of the action of the Immigration and Naturalization Service and of the defendant Bruce G. Barber pursuant thereto.

5. In failing to hold the provisions of the statute here attacked, 64 Stat. 1006, 8 USCA § 137(2)(C), and 64 Stat. 1006, 8 USCA § 137-3, were unconstitutional as bills of attainder and ex post facto laws in violation of the provisions of Article I, Section 9, Clause 3 of the Constitution of the United States.

6. In failing to hold that said statutes were unconstitutional and void in that they contravened the provisions of the First Amendment to the Constitution of the United States and the guarantee of due process of law contained in the Fifth Amendment to the Constitution of the United States.

[fols. 22-35] 7. In failing to hold that the final order of deportation deprived plaintiff of due process of law and of the protection of the Administrative Procedure Act, 5 USCA § 1001, et seq., by reason of the conduct of the deportation hearing by a hearing officer who had prior to his appointment as Hearing Examiner under the provisions of the said Administrative Procedure Act conducted investi-

gations, prosecutions, and hearings of aliens and was not an impartial hearing officer.

8. In failing to hold that the order of deportation deprived plaintiff of due process of law and of the guarantee against self-incrimination contained in the Fifth Amendment to the Constitution of the United States by reason of the use, as the sole basis for the said deportation order, of a sworn statement made by plaintiff under compulsion at a prior hearing, which said prior hearing was void, illegal and deprived plaintiff of due process of law as guaranteed by the Fifth Amendment to the Constitution of the United States, and of the protection of the Administrative Procedure Act, 5 USCA § 1001, et seq.

Wherefore, plaintiff William Heikkila prays that the final decree of the District Court be reversed, and for such other relief as the Court may deem fit and proper.

Gladstein, Andersen & Leonard, (Sgd.) by Lloyd E. McMurray, Counsel for Plaintiff-Appellant.

[File endorsement omitted.]

[fols. 36-37] Statement Required by Paragraph 2, Rule 12 of the Rules of the Supreme Court of the United States—(Omitted in Printing.)

[fol. 38] In United States District Court

Praecipe—Filed September 3, 1952.

To the clerk of the above-named court:

You will please prepare transcript of the record in the above-entitled cause to be transmitted to the Clerk of the Supreme Court of the United States, and include in said transcript the following:

1. Complaint.
2. Affidavit of George R. Andersen.
3. Order of July 15, 1952, of Judge Clifton Mathews, convening a three-judge court in the within cause and setting the matter for hearing August 1, 1952.

4. Motion to dismiss.
5. Judgment of August 4, 1952.
6. Petition for appeal.
7. Order allowing appeal.
8. Citation on appeal.
9. Assignment of errors.
10. Statement of jurisdiction of the Supreme Court of the United States.
11. Statement of plaintiff-appellant directing attention to Paragraph 3 of Rule 12 of Revised Rules of the Supreme Court of the United States.
12. Admission of service.
13. Certificate.
14. This praecipe.

Dated: September 2, 1952.

Gladstein, Andersen & Leonard, by (Sgd.) Lloyd E. McMurray, Counsel for Appellant.

[File endorsement omitted.]

[fols. 39-40] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 41] IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1952

[Title omitted]

STATEMENT OF POINTS TO BE RELIED UPON AND DESIGNATION OF PARTS OF RECORD TO BE PRINTED—Filed November 14, 1952

(A) Appellant adopts for his statement of points upon which he intends to rely in his appeal to this Court the points contained in his assignment of errors heretofore filed.

(B) Appellant designates the entire record as filed in the above-entitled case for printing by the Clerk of this Court.

Dated: November 12, 1952.

(Signature illegible), Lloyd E. McMurray, Counsel for Appellant.

[fol. 42] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1952

No. 426

[Title omitted]

ORDER NOTING PROBABLE JURISDICTION—December 8, 1952

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

(5520)